

**EXHIBIT 1  
continued**

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2 **separate discussion?**

3       A.   That's a separate issue.

4       Q.   Was that the same day or a  
5 different day?

6       A.   I'm not sure.

7       Q.   Ms. Magone initially denied your  
8 request for your days off for your  
9 colonoscopy?

10      A.   Yes, she did.

11      Q.   Did you ask her to reconsider?

12      A.   Yes, I did.

13      Q.   And did she reconsider your  
14 request?

15      A.   She said that I didn't follow the  
16 proper policy and procedure for asking for a  
17 day off. She was incensed that I wrote her  
18 an e-mail stating that I had scheduled a  
19 colonoscopy and would need the time off.

20                  I was not aware of the policy for  
21 taking a planned sick day in that you needed  
22 to fill out a vacation or a day off/time off  
23 request. As soon as she told me that I  
24 couldn't have the time off, I put it in  
25 writing and I asked -- I said I'm sorry that

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2 I didn't know the procedure. I put a Post-it  
3 note on it and I said I would like you to  
4 reconsider, because this is scheduled and  
5 it's something I need, and I had  
6 documentation from my doctor that I needed to  
7 have this done. And I put it in her mailbox  
8 and she received it and she okayed it.

9 MR. KEIL: Can you please mark this  
10 Defendants' Exhibit E.

11 (Defendants' Exhibit E, E-mail  
12 exchange, marked for identification, as  
13 of this date.)

14 Q. Ms. Newmark, you've been handed  
15 what's been marked as Defendants' Exhibit E.

16 Do you recognize this document?

17 A. Yes, I do.

18 Q. And there's some handwriting -- for  
19 the record, this is a printout of an e-mail  
20 exchange between Carole Newmark and Cathy  
21 Magone on September 11, 2006.

22 There's some handwriting in the  
23 upper right-hand corner of the page. Is that  
24 your handwriting?

25 A. Yes.

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2 Q. And what does that say?

3 A. I met with Cathy at 3 o'clock on  
4 the 12th.

5 Q. Did you have some meeting with Ms.

6 Magone on September 12th at 3 p.m.?

7 A. I don't recall, but obviously I  
8 wrote this and we probably met to discuss --  
9 she probably wanted to meet with me to say  
10 she was okaying my request that I had  
11 resubmitted.

12 Q. Drawing your attention to the  
13 portion from Cathy Magone, there is a line,  
14 "I would like to meet with you tomorrow at  
15 9:30 to discuss your overall attendance."

16 Did you have such a meeting?

17 A. I don't believe so, because I  
18 didn't have an opportunity to take this  
19 e-mail off the computer.

20 Q. What do you mean by that?

21 A. I didn't go to my computer. I went  
22 directly -- I came in and went directly on to  
23 patient opportunities to do my work. That  
24 wasn't unusual that I didn't get to look at  
25 my e-mails until later on in the day.

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2 MR. KEIL: Can you please mark this  
3 as Exhibit H?

4 (Defendants' Exhibit H, E-mail  
5 exchange, marked for identification, as  
6 of this date.)

7 Q. Ms. Newmark, do you recognize the  
8 e-mail exchange reflected in Defendants'  
9 Exhibit H?

10 A. Yes.

11 Q. Do you recall whether you met with  
12 Pat Orsaia at about 3:30 on September 13th?

13 A. If I confirmed it here and said  
14 that today at 3:30 is fine, then I did meet  
15 with her.

16 Q. Did anyone else attend that  
17 meeting?

18 A. I believe Cathy Magone was there.

19 Q. Do you have a recollection of Cathy  
20 Magone being at that meeting or are you  
21 drawing a conclusion from things you've --  
22 from documents you have seen here today or at  
23 some other time?

24 MS. NICAJ: Objection.

25 You can answer.

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2 A. I don't think it was with Cathy,  
3 because I think we met on the 28th with Cathy  
4 Magone.

5 Q. So the meeting on the 13th was you  
6 and Pat Orsaia and no one else?

7 A. Right.

8 Q. Where did the meeting take place?

9 A. In Pat Orsaia's office.

10 Q. How long did it last?

11 A. 10, 15 minutes.

12 Q. How did the meeting begin?

13 A. I believe I asked her for how it  
14 was going with the meeting, the upcoming  
15 meeting and whatever, because I hadn't heard  
16 from anyone.

17 Q. What did she say?

18 A. I believe at that time she said  
19 that we haven't met because of our vacation  
20 times and because of scheduling differences.

21 Q. Was there anything else you said to  
22 Pat Orsaia at this meeting?

23 A. Not that I recall.

24 Q. Was there anything else she said to  
25 you?

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2 there had been quite a -- there had been  
3 quite a number of days, and maybe even a  
4 month between the time that I brought up the  
5 issue and this, and I felt that I wanted, as  
6 I said here, I wanted to put some closure on  
7 it, so I could get back to work and do what I  
8 have to do without having this on my mind.

9 Q. You were out of work because of  
10 your colonoscopy on September 26th and 27th,  
11 2006?

12 A. That sounds about right.

13 Q. Do you have any reason to dispute  
14 that Cathy Magone was on vacation from  
15 approximately September 18th to September  
16 21st of 2006?

17 A. I have no -- I don't know where she  
18 was.

19 Q. Did you have a meeting with Pat  
20 Orsaia and Cathy Magone after you sent the  
21 e-mail that's been marked as Defendants'  
22 Exhibit I?

23 A. Yes.

24 Q. Was that the same day?

25 A. Yes.

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2 Q. Where did it take place?

3 A. In Pat Orsaia's office.

4 Q. At what time?

5 A. I'm not sure of what time.

6 Possibly in the afternoon.

7 Q. The people in attendance were  
8 yourself, Pat Orsaia and Cathy Magone?

9 A. Right.

10 Q. No one else?

11 A. No one else.

12 Q. Did you take notes during this  
13 meeting?

14 A. No, I didn't.

15 Q. Did you take notes after the  
16 meeting?

17 A. No, I didn't.

18 Q. How did the meeting begin?

19 A. It began by Pat Orsaia stating that  
20 I had some issues that needed to be  
21 discussed, and that she wanted me to discuss  
22 them with Cathy, and I proceeded by saying  
23 that I had an issue with her making a  
24 statement about Nicole being younger than I  
25 and better able to do the job of work. And

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2 it took off from there.

3 Q. How did Cathy Magone respond to  
4 what you said?

5 A. She said she never said that. She  
6 denied saying it, and she got a little angry,  
7 and she said what I meant to say is she's  
8 younger and can take in information like a  
9 sponge.

10 Q. Didn't Cathy Magone say Nicole was  
11 younger in her career and could soak things  
12 up like a sponge?

13 MS. NICAJ: Objection.

14 You can answer.

15 A. It's a matter of semantics at this  
16 point. Maybe she said it that way, but she  
17 did say she's younger, she's young. She  
18 didn't say at this point in her career. She  
19 said she's young and could soak things up  
20 like a sponge.

21 Q. When you say it's a matter of  
22 semantics, my question is: The exact words  
23 that Cathy Magone said in the September 28th  
24 meeting, as best you can recall?

25 A. I retract that. Cathy Magone says

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2 she's young and can soak things up like a  
3 sponge.

4 Q. Did Cathy Magone mention any  
5 concerns about the quality of your work  
6 performance during this meeting?

7 A. She did.

8 Q. What did she say?

9 A. She said that my work performance  
10 was not up to par. I asked her why she  
11 didn't bring this up to me before. That why  
12 was it is being brought up at this meeting.  
13 Why had she not mentioned it to me before so  
14 that we had an opportunity to work on it.

15 She said she did. She didn't. And  
16 she brought up attendance. I asked her why  
17 she didn't make an issue of this, or why she  
18 didn't say anything prior to this meeting,  
19 that I had to ask for this meeting and why is  
20 she bringing it up at this point.

21 Q. What did she say?

22 A. She got very angry.

23 Q. What did she say?

24 A. She sat there and disputed what I  
25 was saying. She said well, something to the

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2 effect, and I can't quote her, something to  
3 the effect that she had been telling me about  
4 my work, et cetera, et cetera. And I  
5 disputed that. I said you haven't.

6 Q. How long did the meeting last?

7 A. Maybe 20 minutes.

8 Q. Did you say anything else during  
9 the meeting other than what you already  
10 testified to?

11 A. I don't recall.

12 Q. Did Ms. Magone say anything during  
13 this meeting other than what you already  
14 testified to?

15 A. I don't recall anything else.

16 Q. Did Ms. Orsaia say anything during  
17 this meeting?

18 A. Not really. She allowed Cathy and  
19 I to talk about whatever the issues were.

20 Q. How did the meeting end?

21 A. It ended really with no resolution,  
22 no real resolution. I thanked Pat Orsaia for  
23 her time. I -- we both got up to leave,  
24 Magone and I. I got to the door and Magone  
25 said, "Pat, may I meet with you?" And she

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2 stayed behind.

3 Q. Who indicated that the meeting was  
4 over?

5 A. I don't recall. I think it was  
6 mutual.

7 MR. KEIL: Could you please mark  
8 this as Defendants' Exhibit J.

9 (Defendants' Exhibit J, Document,  
10 marked for identification, as of this  
11 date.)

12 Q. Ms. Newmark, do you recognize  
13 Defendants' Exhibit J?

14 A. Yes, I do, and this refreshes my  
15 memory that I asked Cathy Magone how long my  
16 probation period was going to be extended.  
17 And she said that that was for her to know.  
18 And she wouldn't answer, you know, the  
19 question.

20 Q. Did you ask Pat Orsaia any  
21 questions about your probationary period  
22 being extended during that meeting?

23 A. I may have. I don't recall. I may  
24 have asked her if there was some policy or  
25 procedure about when you extend someone's

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2 document something, it didn't happen, and  
3 that's part of social work practice, to have  
4 good documentation.

5 Q. And you printed this out on the  
6 same day that you wrote it, September 29th?

7 A. Yeah, maybe for my records, yes.

8 Q. Do you see the partially cutoff  
9 date at the bottom, it looks like it may say  
10 9/29/06?

11 A. Right.

12 Q. Does that look accurate to you as  
13 the date of printing?

14 A. Yes.

15 Q. Did you print out any other e-mails  
16 that day?

17 A. I may have. I may have printed out  
18 all the e-mails I had.

19 Q. Why did you print out all the  
20 e-mails that day?

21 A. For my records, and I just got a  
22 gut feeling that I was being -- that I was  
23 being -- having charges piled up against me  
24 and I wanted my documentation.

25 Q. So as of the time when you printed

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2 we had talked about. And there was no  
3 clarification, as I indicated in the second  
4 line, that there were issues raised in the  
5 meeting that were not clarified. They were  
6 just left hanging and I just -- I wanted some  
7 resolve.

8 Q. Drawing your attention to the  
9 paragraph that begins with a numeral 2, the  
10 first line there says, "When I asked Cathy  
11 what was the basis for my probation being  
12 extended, she stated it was because of  
13 attendance."

14 When you wrote that, were you  
15 referring to a meeting with Cathy Magone on  
16 or about September 12th or 13th?

17 A. Right, when she mentioned the  
18 attendance, yes.

19 Q. So during that meeting that's on  
20 September 12th or 13th, you were told that  
21 your probation is being extended, correct?

22 A. Correct.

23 Q. You were being told it was because  
24 of your attendance?

25 A. Right.

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2 Q. In that meeting on September 12th  
3 or 13th, did you have any -- was there any  
4 elaboration of your attendance problems?

5 A. Not at all.

6 Q. Did you ask any questions about it?

7 A. I'm not sure.

8 Q. You don't remember?

9 A. No.

10 Q. Didn't Cathy Magone bring some  
11 concerns about your work to your attention in  
12 July 2006?

13 A. Not that I'm aware of.

14 Q. Do you recall sending Cathy Magone  
15 an e-mail asking Ms. Magone if you should  
16 consider a prior conversation to be a  
17 warning?

18 A. Yes.

19 Q. What were you referring to in that  
20 e-mail?

21 A. Okay. I had gone up to Cathy  
22 Magone's office and asked her to please  
23 discuss with me the inconsistencies in the  
24 procedures between myself and the case  
25 manager, and she did not call me there. I

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2 went on my own.

3 And she said, "Well, let's talk  
4 about something else."

5 And I said, "Well, what is it?"

6 And she said, "It's believed that  
7 you are invisible around the hospital."

8 And I said, "What do you mean by  
9 that?"

10 She said across the board -- no,  
11 she said, "It's believed that you are not  
12 able to be reached and that you can't be  
13 found anywhere."

14 I told her that I had not only a  
15 beeper but I had a Nextel and I had overhead  
16 page, that if anyone wanted to reach me, they  
17 could reach me very easily, that I didn't  
18 know what she was referring to, and I asked  
19 her to please let me know who thinks that I'm  
20 invisible.

21 And she said across the board,  
22 everyone feels that you're invisible. And I  
23 didn't understand the -- I didn't understand  
24 why she wouldn't tell me who thinks that I'm  
25 invisible, and she wouldn't qualify the

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2 statement.

3 I said, "Cathy, tell me why someone  
4 thinks I'm invisible. What are the issues?  
5 Let's work on them." And she had no comment.

6 Once again, she stood up and said  
7 goodbye.

8 Q. That was the total conversation?

9 A. That was it.

10 Q. Why did you send her that e-mail?

11 A. Because I'm a very  
12 policy-and-procedure type person. And I know  
13 that when someone takes me into an office and  
14 makes a statement that I'm invisible, that it  
15 may mean something else down the line, and I  
16 wanted to know if it was a verbal warning.

17 I had supervised people before. I  
18 know when I'm giving someone a verbal  
19 warning. I let them know that I'm giving  
20 them a verbal warning, and I also let them  
21 know that I am putting a letter or note in  
22 their file, so I was just qualifying that. I  
23 just wanted to make sure that wasn't the  
24 case. Because it sounded like it was a  
25 reprimand.

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2 Q. Did Cathy Magone tell you that she  
3 was concerned that you weren't adjusting to  
4 the case management model at Lawrence  
5 Hospital?

6 A. Yes, she did.

7 Q. Was that during that same meeting?

8 A. No, it was at another time. I  
9 don't recall when.

10 Q. It could have been in July of 2006?

11 A. It could have been at any time,  
12 because I told her that I was willing to work  
13 with her and the case managers to write  
14 whatever she felt was not being done the way  
15 they wanted it to be done.

16 Q. To write, as in to correct?

17 A. Yes.

18 Q. Did you tell Cathy Magone that you  
19 were overworked?

20 A. I told her that the hospital, in  
21 its size and in its patient needs, was  
22 overwhelming for two social workers, and  
23 that, you know, I felt overworked, yes. And  
24 that I needed some concrete social work job  
25 descriptions to clarify what it is that I'm

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2 supposed to do.

3 Because there were nine case  
4 managers, or eight, who would call me at the  
5 same time and I didn't know, you know, I had  
6 to stop and prioritize which one should I  
7 respond to first. Where should I go first.

8 And then I would get a call from  
9 the ER, and I would have to go down there,  
10 because someone was overdosing. So I  
11 consistently brought this to her attention,  
12 as well as Diane Lance.

13 We had several meetings going over  
14 paperwork to try to streamline my position,  
15 because as I mentioned, when I interviewed  
16 with Cathy Magone, she said this is an  
17 opportunity -- and I don't know if I  
18 mentioned this, but what she said to me was  
19 this is an opportunity for you to write your  
20 own ticket here and make the job what you  
21 want it to be.

22 And so there was really no job  
23 description. And I have paperwork at home  
24 that indicates when we met, but I have all  
25 the paperwork trying to define my position

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2 and my role at Lawrence Hospital.

3 It was very frustrating to me not  
4 to know, you know, where I fit in, what I  
5 should do, who I should answer to first. I  
6 had many supervisors. Each one of the case  
7 managers represented themselves as my  
8 supervisor.

9 Q. Did Cathy Magone ever review your  
10 caseload with you?

11 A. On several occasions, sure.

12 Q. Do you recall her doing so when you  
13 met with her on the occasion that you -- let  
14 me rephrase that.

15 You've testified earlier about a  
16 meeting after which you sent Ms. Magone an  
17 e-mail asking whether you should consider the  
18 conversation to be a verbal warning.

19 A. Uh-huh.

20 Q. During that conversation that  
21 prompted your e-mail, did you and Cathy  
22 Magone have a discussion of your caseload?

23 A. I don't recall. That was a common  
24 question on a daily basis. That's a question  
25 that he could be asked at any time.

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2 Q. Did Cathy Magone tell you you  
3 needed to be more proactive in beginning  
4 discharge planning the families?

5 A. Yes.

6 Q. How many times?

7 A. Twice maybe.

8 Q. When?

9 A. I'm not sure.

10 Q. Did Cathy Magone tell you that you  
11 needed to better prioritize your workload?

12 A. Not that I recall.

13 Q. Turning your attention back to  
14 Defendants' Exhibit J, your September 29th  
15 e-mail, the paragraph that starts numeral 3,  
16 the last sentence reads, "Cathy does not know  
17 what my capabilities are. She has not taken  
18 the time to learn about who I am and know  
19 exactly my strengths are."

20 What did you mean by that sentence?

21 A. What I meant by that was Cathy had  
22 not really supervised me until after Diane  
23 Lance left. She really didn't know anything  
24 about the work that I was doing in the  
25 capacity of a social worker, which was very

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2 different from the -- what the case managers  
3 did. She knew nursing and she knew what case  
4 managers did as nurses, but she didn't really  
5 have a good grasp on what I did as a social  
6 worker. She knew nothing about hospital  
7 social work.

8 Q. What do you consider to be the  
9 difference between what the case managers  
10 were doing and hospital social work?

11 A. Okay. Hospital social work takes a  
12 different bend. Case manager's main focus,  
13 which was my focus as well, but not to the  
14 same degree, was discharge planning. My role  
15 was to assist them in discharge planning and  
16 working with difficult patients, patients who  
17 didn't believe that they needed to leave when  
18 they had to leave.

19 Patients whose families said my  
20 loved one is not going home right now because  
21 they're not ready. And the case managers did  
22 not know how to deal with this and did not  
23 know how to go in and finesse the situation  
24 and get these people to understand that they  
25 can't stay in the hospital.

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2 I was kind of like the closer, so  
3 to speak. And I would go in and speak to the  
4 families and speak to the patient. And  
5 explain to them why they had to leave, that  
6 their insurance was not covering their stay,  
7 that they might be billed for the time that  
8 they were here. And et cetera, et cetera.  
9 And that's how my job differed from theirs.

10 They would go in and say you're  
11 leaving at 3 o'clock and it could be 10  
12 o'clock. They would go in at 10 o'clock and  
13 say you're leaving at 3 o'clock, and many  
14 families and patients would get upset, and  
15 the case managers didn't know how to deal  
16 with that. That wasn't their forte.

17 I would go in and explain to them  
18 this is why. Perhaps if it needed to be  
19 extended for whatever reason, I would work  
20 with the doctor. The doctor would say he  
21 could stay another day, he's got a fever or  
22 whatever, and buy them a little time. It's a  
23 very different role.

24 Q. Drawing your attention to the last  
25 paragraph in Exhibit J, the second sentence

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2 reads, "I know that she hired me knowing that  
3 I am older. However, her comments and  
4 actions during the past few months in regard  
5 to me have been dismissive and  
6 non-supportive."

7 When you're referring to the past  
8 few months in that sentence, what period of  
9 time are you referring to?

10 A. I was referring to after I had made  
11 my complaint to Pat Orsaia.

12 Q. You weren't referring to any events  
13 that had happened before then?

14 A. No, no.

15 Q. Then why did you use the words "the  
16 past few months"?

17 MS. NICAJ: Objection.

18 You can answer.

19 A. Past few months is August,  
20 September. It's a few months.

21 Q. When you said, "I know that she  
22 hired me knowing that I am older," what did  
23 you mean by that?

24 A. I was referring to a statement that  
25 Pat Orsaia said to me. She said well, she

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2 knew you were an older woman when she hired  
3 you. If there was age discrimination, she  
4 would not have hired you. And that's what  
5 I'm referring to here. I didn't -- I wasn't  
6 real clear about it. I was just responding  
7 to what she had told me.

8 Q. By the words "the past few months,"  
9 were you referring to beginning with your  
10 meeting with Pat Orsaia on or about August  
11 18th, why did you have the next sentence, "I  
12 cannot pinpoint when things changed between  
13 Cathy and I"?

14 A. Well, I couldn't pinpoint to say it  
15 was Wednesday, the 14th of whatever. I  
16 couldn't, you know, but her interactions with  
17 me were very different. They were very  
18 dismissive. They were very vague. They were  
19 not responsive.

20 Q. Wasn't Cathy Magone dismissive of  
21 you before August 15th?

22 MS. NICAJ: Objection.

23 You can answer.

24 A. Yeah. She was dismissive, but you  
25 know what, I chalked it up to she's busy and

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2 whatever. I never really put the pieces  
3 together and made connections about anything.  
4 I just assumed, you know -- wasn't dismissive  
5 in the same way.

6 Q. **How is it different?**

7 A. When someone doesn't make eye  
8 contact with you, when someone is insincere,  
9 when someone doesn't respond to something you  
10 say in a meeting, when prior there was a  
11 response, when you are singled out and asked  
12 to do certain things that maybe someone else  
13 wouldn't do.

14 And I don't have an example of  
15 that. I just know -- there was just so much  
16 going on. Her whole attitude towards me had  
17 changed. She wasn't supportive. I stayed in  
18 the ER one night until 7 o'clock. I was  
19 supposed to leave at 4. She said the only  
20 reason you stayed there was because you  
21 couldn't get your work done in a timely  
22 manner. That's not supportive.

23 Q. **She was not supportive for you at**  
24 **any time after she became your immediate**  
25 **supervisor, correct?**

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2 MS. NICAJ: Objection.

3 You can answer.

4 A. She was supportive at times. Sure  
5 she was.

6 Q. How was she supportive of you at  
7 times?

8 A. I think there is a memo that's  
9 floating around somewhere where she said  
10 there are problems, but we will work through  
11 them and I will help you through that. Don't  
12 worry about it. Things happen. We will work  
13 through this. We will work through that.

14 Please keep me abreast of when the case  
15 managers treat you unfairly and I will take  
16 care of it. That's supportive.

17 MR. KEIL: Will you please mark  
18 this as Defendants' Exhibit K.

19 (Defendants' Exhibit K, E-mail  
20 dated 5/11, marked for identification,  
21 as of this date.)

22 Q. I'm showing you a May 11 e-mail  
23 that's been marked as Defendants' Exhibit K.

24 Is this the e-mail that you were  
25 just referring to?

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2                 A. It might be one of the e-mails or  
3 one of the statements that she made to me  
4 that showed her being supportive.

5                 Q. Didn't Cathy Magone send you this  
6 e-mail before she became your immediate  
7 supervisor?

8                   MS. NICAJ: Objection.

9                   You can answer.

10          A. I believe she did.

11          Q. Drawing your attention back to  
12 Exhibit J, the next-to-last line of text  
13 includes the words, "This makes me feel very  
14 vulnerable and insecure about my job at LHC."

15                   **What were you referring to there?**

16          A. There was a feeling that Cathy was  
17 not supportive, that she was not -- after our  
18 meeting, you know, I just felt, I felt  
19 vulnerable. I felt vulnerable. I felt that  
20 my job wasn't secure, and as it turns out, I  
21 was correct. So I don't know what to say. I  
22 have a sense of when something is not right.  
23 It's intuitive. It's on the mark.

24          Q. Weren't you insecure about your job  
25 at Lawrence Hospital prior to September of

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2 2006?

3 A. Prior to that?

4 Q. Yes.

5 A. Can you repeat that?

6 Q. Were you insecure about your job at  
7 Lawrence Hospital prior to September of 2006?

8 A. I felt that things were not gelling  
9 the way I wanted them to. When I met with  
10 Cathy Magone at one point, and I said to her,  
11 I think -- and this may have prompted this,  
12 this is Exhibit K, from her, I said that no  
13 one could be -- could be harder on me than I  
14 am on myself because I have very high  
15 standards, and I have taken an oath of ethics  
16 in my work as a social worker, and no one can  
17 beat me up as well as I can beat myself up.

18 And I knew that I wanted things to  
19 be perfect. And that things weren't  
20 happening for me. And I kept going to her  
21 and asking her time after time to please  
22 let's meet, let's meet with the case  
23 managers, let's get this together. Let's  
24 pull this together, and I wasn't getting the  
25 responses that I wanted. And that's probably

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2 why I felt vulnerable.

3 Q. Did you feel any confusion about  
4 your role at Lawrence Hospital as compared to  
5 what the case managers were doing?

6 MS. NICAJ: Objection.

7 You can answer.

8 A. Confused, I wasn't confused.

9 Q. Did you have any uncertainty about  
10 what your role at Lawrence Hospital was  
11 supposed to be after Maura Del Bene started  
12 working there?

13 A. It became a little more ambiguous  
14 when she came on board, yes.

15 Q. In what regards did it become more  
16 ambiguous?

17 A. Because we -- social workers were  
18 doing that palliative care piece, not calling  
19 it palliative care, before Maura Del Bene  
20 came on board. And when she came on board,  
21 it wasn't clear what the dynamics would be  
22 and how our jobs would be affected, which is  
23 why I tried meeting with Maura Del Bene to  
24 clarify what the roles are and not reinvent  
25 the wheel.

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2 Q. Did Maura Del Bene help you clarify  
3 those roles?

4 A. She tried. She tried.

5 MR. KEIL: I would like this marked  
6 as Defendants' Exhibit L.

7 (Defendants' Exhibit L, Document,  
8 marked for identification, as of this  
9 date.)

10 Q. Do you remember receiving  
11 Defendants' Exhibit L?

12 A. Yes, I do.

13 Q. What was your reaction when you  
14 received it?

15 A. That I was never told that she  
16 needed to have a project of her own. I was  
17 never told that she needed to have a project  
18 of her own. And to be frank, I think she was  
19 covering her ass by sending this.

20 Q. Why do you think she was covering  
21 her ass?

22 A. I don't know. She didn't respond  
23 to me at any other time, and now all of a  
24 sudden I got this a day before she let me go.  
25 Oh, that was a Thursday, so I don't know.

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2 Q. Well, in the next to last and last  
3 line of the first paragraph, you see the  
4 words, "I never intended to imply that you  
5 are not chosen because of your age or that  
6 anyone's age was relevant to my decision."

7 Did you have any reason to doubt  
8 what Ms. Magone was saying there?

9 MS. NICAJ: Read the entire  
10 sentence to yourself.

11 Q. Read the whole document.

12 A. That's not what she said to me.  
13 She said, Nicole, you know, is younger and  
14 can handle the job better. And can handle  
15 the job better. So I don't know where this  
16 came from.

17 Q. When Ms. Magone wrote to you that  
18 she never intended to imply that anyone's age  
19 was relevant to her decision, what reason do  
20 you have to doubt her saying that?

21 MS. NICAJ: Objection.

22 You can answer.

23 A. There was distrust there.

24 Q. Meaning you did not trust her?

25 A. Yes. Based on her attitude and

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2 her, just how she treated me, how she treated  
3 other people. There was a sense of distrust.  
4 So why would I trust anything she said. She  
5 lied so, you know, why would I believe there  
6 was some substance to that.

7 Q. So your reaction on reading that  
8 sentence was that Ms. Magone was lying?

9 A. Yeah, because she didn't describe  
10 Nicole as a new young social worker needing  
11 to have a project of her own.

12 Q. Assuming for the sake of argument  
13 that you're assertion is correct, do you have  
14 any reason to believe that Ms. Magone was  
15 lying when she said that age was not relevant  
16 to her decision?

17 MS. NICAJ: Objection.

18 You can answer.

19 A. Well, she lied in the beginning  
20 saying that she never said it. So that's the  
21 basis of my believing her or not believing  
22 her.

23 Q. So your basis for believing that  
24 Ms. Magone was lying in Defendants' Exhibit L  
25 is that you believe she was lying in prior

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2 **meetings you had had with her?**

3                   MS. NICAJ: Objection.

4                   You can answer.

5                   A. I don't know how to answer that.

6                   MS. NICAJ: Can you rephrase that?

7                   MR. KEIL: Can you read the  
8 question back?

9                   (Whereupon, the requested portion  
10 was read back by the court reporter.)

11                  A. Yes.

12                  Q. Is there any other reason?

13                  A. Not that I can think of at this  
14 time.

15                  Q. What do you understand the term  
16 palliative care to mean?

17                  A. Palliative care is where a patient  
18 is cared for in the later stages of life when  
19 they're dying, and palliative care is  
20 offering a way for them to die with dignity,  
21 without pain and without suffering.

22                  Q. Were you involved in providing  
23 palliative care while you were at Lawrence  
24 Hospital?

25                  A. Yes, I was.

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2 Q. Did you provide palliative care  
3 during the entire time that you worked at  
4 Lawrence Hospital?

5 A. For the most part, yes.

6 Q. Starting in approximately March of  
7 '06 through your last week of employment?

8 A. Yes. Not palliative care in the  
9 sense of providing medication for pain, but  
10 providing a source of compassion. A source  
11 of just being there with someone. Holding  
12 someone's hand as they're dying. That's my  
13 piece in the palliative care piece.

14 Q. Are you licensed to prescribe  
15 medication?

16 A. No, I'm not.

17 Q. Was a formal palliative care  
18 program operating at Lawrence Hospital when  
19 you started work there?

20 A. No, not in the true sense of a  
21 palliative care unit or center.

22 Q. When did it begin?

23 A. It began to my -- to the best of my  
24 knowledge, when Maura Del Bene was hired as a  
25 nurse practitioner to be a liaison between

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2 Jansen Memorial Hospice Care and the hospital  
3 working with Dr. Page.

4 Q. Did the palliative care program  
5 have dedicated staff at Lawrence Hospital?

6 A. Maura Del Bene.

7 Q. Anyone else?

8 A. Nicole Serra.

9 Q. Did you participate at any meetings  
10 regarding the creation of the palliative care  
11 program?

12 A. Early on, I did. I met with Maura  
13 one or two times. Then it became a little  
14 more complicated to meet with her. Her time  
15 to meet was basically early in the morning.  
16 She came in at 9 o'clock. I came in at 8.  
17 So she would want to meet at 9:30 or so.

18 I had line up at 10 and I was busy  
19 getting my patients for the day, so we really  
20 didn't meet as often as I would have liked to  
21 because I didn't have the liberty of time.

22 Q. Did you ask Ms. Del Bene if you  
23 could meet at another time that was more  
24 convenient to you?

25 A. Yes, we tried on several occasions

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2 to meet up at different times.

3 MR. KEIL: I would like this marked  
4 as Defendants' Exhibit M.

5 (Defendants' Exhibit M, E-mail  
6 exchanges, marked for identification, as  
7 of this date.)

8 Q. I've handed you a series of e-mail  
9 exchanges. It's three pages. It's been  
10 marked as Defendants' Exhibit M. Why don't  
11 you just take a quick look through it to  
12 familiarize yourself with it.

13 Are you ready?

14 A. Yes.

15 Q. In the last -- in the top message  
16 in the e-mail exchange listed as Defendants'  
17 Exhibit M, that was sent by you on Monday,  
18 June 5th, there is a reference to trying to  
19 meet on the following Wednesday at 2:00 p.m.

20 Do you see that?

21 A. Yes.

22 Q. Did you meet with Ms. Del Bene on  
23 that Wednesday?

24 A. I don't recall.

25 Q. A little bit further down on that

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2 MR. KEIL: I would like this marked  
3 as Defendants' Exhibit N.

4 (Defendants' Exhibit N, E-mail  
5 exchange, marked for identification, as  
6 of this date.)

7 Q. Ms. Newmark, you have been handed  
8 an e-mail exchange that's been labeled as  
9 Defendants' Exhibit N.

10 Do you remember this e-mail  
11 exchange with Maura Del Bene?

12 A. Let me read it.

13 Yes.

14 Q. In what you wrote on July 5th, it  
15 says let's talk, okay. Did you schedule time  
16 with Maura Del Bene to discuss a bereavement  
17 process?

18 A. I don't recall. I probably did. I  
19 probably did if she wanted to go over the  
20 process, because it was confusing as to where  
21 we were going with it, what was happening.

22 Q. Do you recall having a discussion  
23 with Maura Del Bene about the bereavement  
24 process?

25 A. No.

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2 Q. Did you ever put together a policy  
3 for the bereavement process?

4 A. No.

5 Q. Do you know who did?

6 A. I would assume that it was Maura  
7 and Dr. Page.

8 Q. Did you understand the bereavement  
9 policy to be a part of the palliative care  
10 service?

11 A. Yes.

12 Q. Why didn't you put together the  
13 bereavement policy?

14 MS. NICAJ: Objection.

15 You can answer.

16 A. No one ever asked me to do that.

17 Q. Did Maura Del Bene invite you to  
18 coffee to discuss the bereavement process?

19 A. We met over coffee a few times.

20 Q. To discuss that topic?

21 A. I think to just discuss palliative  
22 care in general. And also how things were  
23 working on the units. She had a lot of  
24 complaints about case managers also and how  
25 things were done. And her role in working

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2 with case managers. She had some  
3 difficulties as well.

4 Q. You mentioned a case manager  
5 earlier named Kitty.

6 Was her given name Thelma Gordon?

7 A. Yes.

8 Q. Did Maura Del Bene contact you  
9 while you were working at Lawrence Hospital  
10 to assist her in providing palliative care in  
11 particular cases?

12 A. On numerous occasions.

13 Q. How many times?

14 A. As the need arose. I couldn't give  
15 you a number.

16 Q. Do you know whether Maura Del Bene  
17 contacted Nicole Serra to get her assistance  
18 on providing palliative care in particular  
19 cases?

20 A. Yes, at times she did, yes.

21 Q. Maura Del Bene contacted you to  
22 assist with palliative care cases after you  
23 complained to Pat Orsaia on or about August  
24 15th, correct?

25 A. Can you repeat that?

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2 Q. Did you work on any palliative care  
3 cases with Maura Del Bene after you  
4 complained to Pat Orsaia?

5 A. I'm sure I did. It was an ongoing  
6 thing. It depended on who the patient was  
7 and what their need was.

8 Q. Did the number of palliative care  
9 cases you worked on or their frequency drop  
10 off after you complained to Pat Orsaia?

11 A. They dropped off after Nicole Serra  
12 was assigned to the palliative care center.

13 Q. Did you refer any cases to Maura  
14 Del Bene that you felt would be appropriate  
15 for palliative care service?

16 A. Yes.

17 Q. Approximately how many?

18 A. 20. That's a ballpark figure.

19 Q. Did Maura Del Bene ever ask you to  
20 sit in on any meetings she was having with  
21 families?

22 A. Yes.

23 Q. How many times?

24 A. Whenever she felt that it was a  
25 shared case, that it was my patient and there

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2 was some issue, she always invited me to join  
3 in on a meeting.

4 Q. Did you join her on those meetings?

5 A. Yes.

6 Q. All of them?

7 A. May not have been all of them, no,  
8 but we always made contact afterwards and  
9 discussed the case, because it was my  
10 patient. And the reason I didn't meet with  
11 her perhaps is because I was busy with  
12 another family or another patient.

13 Q. You didn't tell Maura Del Bene that  
14 you had already met with the family and it  
15 wasn't necessary to meet with them again?

16 A. Perhaps I did on occasion, sure.

17 Q. More than once?

18 A. Maybe, yes. That wasn't unusual.  
19 If I had met with them, she had a different  
20 bend. She had a very different bend. So I  
21 may have met with them at a certain level and  
22 then she met with them to talk more about --  
23 she was a nurse practitioner, so she knew  
24 about the medical status of the patient and  
25 things that, you know, were not in my realm

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2                 A. I don't even understand that  
3 question, because I never heard that before.  
4 My answer is no.

5                 Q. Did you tell Maura Del Bene that  
6 social work takes time and isn't about  
7 completing tasks?

8                 A. I may have said that working with  
9 patients and families who are dying does take  
10 time, and that's a fact.

11                Q. Did you complain to anyone at  
12 Lawrence Hospital that there were not enough  
13 social workers?

14                A. Absolutely.

15                Q. Who did you complain to?

16                A. Cathy Magone.

17                Q. Anyone else?

18                A. Maybe the case managers.

19                Q. Were you aware that there was a  
20 hiring freeze at Lawrence Hospital in 2006?

21                A. I have no idea.

22                Q. Approximately how many active cases  
23 did you have on a given day after Nicole  
24 Serra started working at Lawrence Hospital?

25                MS. NICAJ: Objection.

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2 You can answer.

3 A. It varied. It depended on the need  
4 for social work intervention, so it varied.

5 There were times when I would have four or  
6 five. There were other times when I would  
7 have 12 and 15. It depended on what  
8 intervention was required. And how I got my  
9 referrals.

10 Q. On average, how many new referrals  
11 did you receive each day?

12 A. Anywhere between 4 and 15.

13 Q. What were your responsibilities  
14 with regard to a new referral?

15 A. New referral to go in and do a  
16 biosocial on them. To see what their needs  
17 were. To ascertain if there was anything I  
18 could do for them to help them with the  
19 discharge process in tandem with the case  
20 managers. There was casework that was done.  
21 There were referrals to nursing homes. There  
22 were referrals to hospices.

23 There were referrals to department  
24 of social services. Sometimes it was just a  
25 matter of sitting and listening and listening

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2 to someone and making sure they understood  
3 that they were heard because they were in  
4 pain, either emotionally or physically.

5 Q. Now, you said at any given time you  
6 could have 4 to 15 active cases, but you were  
7 also receiving anywhere from 4 to 15 new  
8 referrals a day?

9 A. Anywhere from there, and if it  
10 became overwhelming, sometimes Nicole and I  
11 would split them. If it was the opposite,  
12 where in her unit there were too many cases,  
13 I would step in and do them.

14 Q. Do you have an understanding of  
15 what Nicole Serra's caseload was at the same  
16 time in terms of active cases?

17 A. It's about the same. At one point  
18 I kept each and every face sheet on the  
19 patients that I had and I had tons of face  
20 sheets. I destroyed them when I left.

21 Q. Approximately how many were there?

22 A. That I had seen over the period  
23 that I was there. I don't know. Anywhere  
24 from given 4 to 15 a day, I can only  
25 approximate for each week, 16 to 20 a week at

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2 Q. Did you find your caseload at  
3 Lawrence Hospital overwhelming?

4 A. No.

5 Q. Did you find your caseload at  
6 Lawrence Hospital more than you can handle  
7 successfully?

8 A. No.

9 Q. But you did mention to people at  
10 Lawrence Hospital that you felt overwhelmed?

11 A. I felt overwhelmed with the  
12 inconsistencies and with the lack of  
13 direction as to who did what and why. That's  
14 what became overwhelming. The patients never  
15 became overwhelming.

16 Q. Do you recall a length-of-stay  
17 meeting during which Cathy Magone asked you  
18 about your cases and you said you weren't  
19 familiar with them?

20 A. Yes, I do.

21 MS. NICAJ: Objection.

22 You can answer.

23 A. Yes, I do.

24 Q. When was that?

25 A. I don't recall when it was, but I